DOCUMENT RESUME

ED 085 884 EA 005 794

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TITLE Community School Board Elections in New York City. A Report to the New York State Commissioner of Education.
INSTITUTION New York State Education Dept., Albany.
PUB DATE Dec 73
NOTE 32p.

EDRS PRICE MF-$0.65 HC-$3.29
DESCRIPTORS *Board Candidates; *Boards of Education; *Community Schools; *Elections; Political Issues; *Voting
IDENTIFIERS *New York State

ABSTRACT

Following reports of irregularities in the May 1973 school board elections of New York City, the New York Commissioner of Education asked the author to identify the difficulties encountered by the voters and candidates, on both election day and in the period for registration and nomination which preceded it, and to recommend such changes in the law and procedures as might be necessary to ensure orderly elections. The author held public hearings at which 68 witnesses testified and 1,971 pages of testimony were taken. The report presents an overview of the problem and then discusses recommendations; the most important one being, according to the author, to concentrate responsibility for the conduct of the electoral process in a separate independent agency. Other recommendations fall under the areas of registration, proportional representation, subdistricting, length and staggering of terms, eligibility, filling of vacancies, slates, petitions, and campaign expenditures. (Author/JF)

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COMMUNITY SCHOOL BOARD ELECTIONS IN NEW YORK CITY

A Report
to the
New York State
Commissioner of Education
by

Max J. Rubin
Special Advisor to the Commissioner

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December, 1973

EA 005 794

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December 7, 1973

Honorable Ewald B. Nyquist
Commissioner of Education
State Education Department
Albany, New York 12224

Dear Commissioner Nyquist:

On September 12, 1973, you appointed me to conduct hearings and make a study of the Community School Board Elections in New York City, following "wide-spread reports of irregularities and deficiencies" in the May 1 elections. You asked me to identify the difficulties encountered by the voters and the candidates "both on election day and in the period for registration and nomination which preceded it," and to recommend "such changes in the law and procedures as may be necessary to ensure orderly elections in the future."

Public hearings were held at the Bar Association of the City of New York from October 9 to October 30. Sixty-eight witnesses testified and 1971 pages of testimony were taken. The witnesses came from 19 of the 32 districts. They included representatives of the Board of Education, the Board of Elections, the United Federation of Teachers, civic, community and parent organizations which had been involved in the May 1 elections, as well as legal and research consultants.

I also conferred with representatives of the Police Department, present and former officials of the Board of Elections, including the Chief of the Special Unit which had been set up for the Community School Board elections, representatives of the Board of Education, an official of the New York Municipal League, and representatives of several of the concerned civic and parent groups.

To all who participated in these proceedings and provided the benefit of their experience and thinking, I am grateful.

There are inherent and basic flaws in the structure governing these elections. I believe a substantial overhaul is necessary, but also that it should be limited to that which is truly necessary. To design an entirely new blueprint would generate more problems than it could solve.

It will be noted that, with respect to several important problems, there is no precise remedy that can be demonstrated to be the only possible solution. In several of the issues, any recommendation has pros and cons, and alternatives will be discussed. My recommendation will be the adoption of that course which, on balance, seems most likely to be effective.

I am indebted to Counsel for the Department, Robert D. Stone, and his staff for their guidance and research; to Dr. Sterling Keyes and Dr. Robert Foland of the Department who were helpful throughout this study. I express much appreciation also to Ms. Gloria Dapper and Ms. Barbara Carter who performed valuable service in the analysis of the record and in the preparation of this report.

Transmitted herewith are my report and recommendations, together with the stenographic transcript of the hearings and an appendix consisting of exhibits and material submitted to me.

Sincerely,
Max J. Rubin
Special Advisor to the
Commissioner

COMMUNITY SCHOOL BOARD ELECTIONS IN NEW YORK CITY

A REPORT TO THE NEW YORK STATE COMMISSIONER OF EDUCATION

by

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AN OVERVIEW

To understand the complexities of New York City's Community School Board elections, it is necessary to understand the complexities of the setting in which they were held.

The legislative intent of the 1969 Decentralization Law dividing the city's mammoth school system into 30 to 33 school districts was to encourage community involvement in the educational system by creating popularly elected boards for each district and by mandating parent associations in each school. A system of proportional representation was included in the legislation as well as the enfranchisement of non-citizen parents in order to enhance minority representation and community involvement. The first election was held in 1970, the second on May 1, 1973.

The Community Boards are responsible for the education of a total of more than 840,000 pupils in 772 elementary and junior high schools. Even with decentralization, the size of the local districts remains a formidable factor contributing to complexity. In total population, the districts range from 109,357 (District 23) to 576,000 (District 2). Indeed, only four cities in the State have more residents than the *smallest* district, which is about the size of Albany. Two-thirds of the districts are larger than Yonkers; the largest is bigger than Buffalo.

And perhaps even more important than numbers is diversity. Besides blacks and Spanish-surnamed people, who comprise approximately 36 percent of the city's population, there are sizeable enough minorities from other ethnic backgrounds to require voting informa-

tion to be presented in 10 different languages. The type of diversity varies from area to area within the city. Nor is it confined to racial and ethnic minorities. There are religious and ideological minorities within the districts as well.

Demographic statistics for the districts tend to change. Constant movement renders many figures outdated to some extent, and the figures for Puerto Ricans, where available, are only estimates at best. According to the 1970 census, Puerto Ricans form a sizeable minority (25%–48%) in six districts, blacks are in the majority in four, while 10 districts are 90 percent white.

However, the electorate of many districts does not reflect the ethnic make-up of the schools. In District 29, for example, while two-thirds of the students are black, only two-fifths of the general population are black. In 21 districts, the majority of pupils are black and Spanish-surnamed. In only 10 districts do blacks and Puerto Ricans form a majority of the overall population.

But even where the schools reflect the general population, the majority of potential voters tends to be white. Citywide, it has been estimated that approximately 29 percent of the Puerto Ricans and blacks are of voting age, while 67 percent of the whites are.

Complicating the matter further is the fact that New York's districts differ from all other districts of comparable size in the rest of the State in one important respect. In the other large cities, the school district boundary is coterminous with the city boundary. Cities like Buffalo and Rochester have major newspapers and radio and television stations which cover local news. But most of the Community Districts in New York City are without such coverage.

Although there are 63 weekly newspapers in the five boroughs which purport to cover neighborhood news, most of them are of the shopping news variety, which come and go. Only a few are well-established, reliable reporters of news on the local level. In addition, there are five black newspapers in the city, seven Jewish newspapers, and two Spanish papers, all of which would have an interest in covering news of the Community School Boards, albeit from a special point of view.

The seven television stations do not concentrate on neighborhood news. All of them broadcast signals that reach out to Connecticut and New Jersey so that the greater metropolitan area is their prime audience. Similarly, the radio stations, by and large, beam their coverage to the large metropolitan area.

Thus the media which might be interested in providing information about local school districts either have other primary concerns or are

directing their efforts toward certain segments of the electorate. The major newspapers, radio and television stations provide an overall point of view, but they cannot be expected to cover in detail events which are of interest only to small segments of the city. The newspapers and electronic media are geared to citywide, national and international coverage and cannot be expected to devote the space and attention needed to cover the affairs of 32 community school districts.

New York is marked by factionalism and polarization of various kinds. In the city as a whole, and in certain of the community school districts in particular, this factionalism and polarization was intensified during the 1968 teachers' strike, leaving animosities and hostilities not yet healed. Unfortunately, parents' groups and teachers in many of the districts are in opposing camps. Many parents feel that not only the teachers but the " establishment " oppose their participation in school affairs. Teachers feel that their professional rights will be undermined if hostile Community Boards take power. In addition, contests have been waged between public school parents and parochial school parents and between representatives of local poverty agencies and other community leaders.

It is against this backdrop of disparity, diversity, and distrust that the examination of the Community School Board elections must be made.

THE 1973 ELECTIONS

On Tuesday, May 1, 1973, 370,204 voters (out of three and one-half million registered), cast their votes for 841 candidates to fill the 288 seats on the nine-member Community School Boards. The overall turnout of 10 percent was lower than the 14 percent turnout for the 1970 Community Board elections.

The turnout in New York was not evenly spread. Six districts had a markedly higher turnout than in the first election, 14 districts had a lower turnout and the rest were about the same. As with school elections in the rest of the nation, voters often do not go to the polls unless a burning issue is at stake, and, as with other school elections, it can only be surmised that the young voters tended to stay away from the polls. In 1970, there had been boycotts in four districts. Apparently, the absence of boycotts in 1973 made relatively little difference in the turnout. Only one of the four districts had a significantly larger vote in 1973 than in 1970.

The first important question is whether the May 1 election was well-conducted. To be sure, the testimony before me was unsworn

and most of it came from aggrieved and disappointed people. But testimony also came from several independent and respected civic organizations which have a deep concern for an effective and orderly electoral process. The words " confusion," " chaos," " disaster " and " incompetence " were used again and again by witnesses describing what happened to them and others they observed on election day.

According to the Director of the Public Education Association, voters felt the election was a " farce or worse." " The PEA on election day received literally hundreds of phone calls . . . The volume of them was so enormous and so overwhelming that it caused us to band together . . . and try to get an inquiry . . . It is clear from newspaper accounts, personal experience and the volume of phone calls . . . that the election day administration was deeply and irretrievably flawed."

According to an executive of the Citizens Union, an experienced expert, it " was one of the most miserably run elections it has ever been my misfortune to encounter."

I wish to state quickly that in the view of this observer, and in my own view, the then President of the Board of Elections and the Chief of its Special Unit did all within their power to cope with the problems that confronted them. Undoubtedly there were members of their staff who also tried hard to meet the many problems involved in the election.

It should also be noted that several of the witnesses testified to the efforts made by the Public Education Association to disseminate pertinent information and to stimulate registration and voting. Ultimately a large quantity of press releases and informational materials was printed by the board of education, but there is little evidence that these materials were effective. The Public Education Association did print posters and with the Community School System Law Project distributed a " candidates manual " which many candidates found to be their only source of technical information. Unfortunately,none of these commendable efforts succeeded in producing orderly elections.

There is no need to burden the body of this report with a detailed recapitulation of the testimony which is being submitted herewith. Even discounting the testimony of some disappointed candidates and others with self-interest, it is clear that irregularities took place on a widespread basis.

The election in District 17 was invalidated. Although the elections in four other districts were challenged, the courts permitted them to stand. I understand that the challenge in another district is scheduled for early trial.

Irregularities occurred at every step of the procedure, from the petitioning process through the counting of the ballots. Complaints from witnesses came from all five boroughs. With respect to petitions, it was said that the procedures were too highly technical and the instructions issued were of minimal assistance to politically unsophisticated candidates.

There were complaints of failure to maintain records in an orderly manner and registration cards needed to validate petitioners signatures were, in some instances, missing. There was testimony that original petitions were permitted to be taken from the offices of the Board of Elections to be copied by challengers without accompanying election officials. It was charged that one employee of the Board of Elections, in a position to verify petition signatures, was a candidate. There was testimony of failure to number parent registration forms and failure to safeguard transmission of parent validated forms from the principals' offices to the Board of Elections offices.

There was criticism of the insufficiency of time allowed initially for registration and a paucity of public information and publicity with respect to registration. Apparently, the PEA produced the only posters telling people when they could register, which posters the Board of Education urged the schools to post.

Although registration in the schools was scheduled from 8 a.m. to 8:30 p.m., registrars often left at 3 p.m. when the schools closed, because they did not feel secure in empty buildings. Registration tables in schools were located in obscure spots; not enough interpreters were hired by school principals where needed; street registration with the use of deputized volunteers had poor organization; volunteers had difficulty learning how to be deputized; prospective registrants had great difficulty in learning how and where to register.

With respect to campaigning, the criticisms were that there was no central place to get information on candidates or procedures; that the mandated candidates' forums began in some districts before all candidates had filed, were poorly attended (even candidates did not show up), and districts were not monitored to see that the meetings were held. The biographies and statements of over 800 candidates prepared by the League of Women Voters were not distributed until the last minute. Campaign literature was distributed through school children. There was a charge that teachers distributed campaign literature on April 30 and May 1 while voting was taking place, and in one case the Community Board members gave campaign literature to the principal for distribution by children. It was charged that teachers made use of parent lists.

Large numbers of voters failed to receive notification of their voting place and the location of many polling places was changed because of reapportionment and redistricting. There were no maps to direct voters to their correct locations. There was a lack of facilities, supplies and personnel at polling places. Many opened hours late. Some had no voting booths, others had the wrong ballots delivered to them. Still others had to wait for inspectors who failed to arrive on time.

The hastily-compiled computer lists of voters used in place of the usual " buff cards " were inaccurate. Names were missing and inspectors were sometimes unaware that a supplementary list existed.

Election inspectors were insufficiently trained. Some did not understand the preferential ballot and some supplied misinformation about it. Some inspectors, not used to paper ballots, were casual about their collection and protection. There were instances in which sample ballots without election district identification or serial numbers were used instead of official ballots. Inspectors failed to prevent electioneering at the polls; palm cards were at some tables. One inspector was also a candidate, another inspector was the wife of a candidate. There was a lack of bilingual material and interpreters. There were inadequate cardboard ballot boxes, and many were split open or broken or without lids.

With respect to the counting of ballots, there was inadequate security. Police took some boxes to the counting places immediately, while others were left in the school unguarded for several days. Trucking firms hired to transport ballots took them to wrong counting places. Some ballots were lost entirely.

There were instances where the count began before all the ballots arrived, although the order in which ballots are counted affects the outcome in preferential voting.

A number of lawsuits were generated at every stage of the process. One suit dealt with bilingual assistance, one with non-personal registration, one with the use of parent lists, another with the use " of buff cards," one involved distribution of campaign literature, one complained of ballot box security, one charged irregularities in the petitioning.

A lawsuit is now pending to invalidate the election in one district, while a new election was ordered in another district and was held on November 27.

We can never know how many frustrated persons did not get to vote. We cannot assess the disillusionment of many.

The failure of the election process was due primarily to inherent weaknesses in the administrative structure and process.

But in the May 1, 1973 elections, the difficulties were compounded by the collision in dates with the primary elections. A brief chronology may be helpful.

In October, 1972, the Central Board of Education began to plan for redistricting with a hearing set in December. This necessarily was a preoccupation of the Board of Education until February.

Meanwhile, the Board of Elections had to prepare for the June 4 primaries. Although the Legislature had set the date for the Community School Board elections as May 1, the Board of Elections said in January that the date might have to be changed because the voter registration forms and buff cards necessary for the election would not be available. They would have to be reserved for checking petitions and challenges for the regulary June primary.

The Board of Education issued the rules for preparing and filing the nominating petitions, the forms to be made available by mid-March. These petitions were held up briefly because of the ruling by Judge Stewart that the petition forms must be bilingual.

The question of district lines was settled a month before registration began. In February, the Board of Education created a new district, number 32.

The timetable for registration in the elementary schools on March 12 through 17 was released by the Board of Education and the Board of Elections jointly on February 16, and on February 21 the Board of Education sent the rules and regulations concerning registration, petitions and voting to the Community School Boards, district superintendents and principals. The proposed registration dates and procedures for parent voters were under attack by pressure and demands by constituent groups to change the times, increase the days and liberalize the process by permitting nonpersonal registration. The New York County Supreme Court held that nonpersonal registration was illegal.

In the first week of March, the Board of Elections announced that 123 special volunteers had been sworn in to conduct the street campaign to register voters in various districts. The "parent" voters registered with them would have their status validated afterward by school principals. On March 9, Judge Stewart ordered that registration forms, like the petitions, must be bilingual and translators provided in schools with a student population 5 percent or more from Spanish or Chinese backgrounds.

All elementary schools were to be kept open until 8:30 p.m. for registration from March 12–17, two weeks less than the registration period in 1970 when street volunteers had not been used. Registration

by the street volunteers deputized by the Board of Elections would continue to April 3 and in the borough offices of the Board of Elections until April 20. On March 16, Judge Stewart ordered in-school registration to be extended for three days to March 21 to allow for delivery of bilingual registration forms where they had been missing.

On March 16, the Citizens Advisory Council appointed by the head of the Special Election Unit of the Board of Elections expressed concern to the representatives of the Board of Education and Board of Elections respecting the manner in which principals had hired translators.

On March 21, registration in the schools closed, with 25,508 new voters added to the lists. About half were " parent " voters and half regular voters.

At this point, there were also controversies in connection with obtaining lists of parents' names. The head of the Special Unit said it was impossible to publish a complete list of registered voters since the last registration day was only 11 days before the election.

On March 23rd, the Board of Education instructed the district superintendents, rather than the principals, to recruit interpreters for Election Day.

Petitions were filed between March 27 and April 3. By April 12, one-third of the 906 petitions filed had been challenged, including entire slates in 13 districts.

On April 13, the then President of the Board of Elections asked the courts to help provide mini-courts in each borough to hear challenges on Election Day. One extra location in addition to the borough offices of the Board of Elections was provided for challenges in four of the boroughs.

Meanwhile, the crucial controversy over the use of the buff voter cards continued. The Board of Elections was attempting to arrange computer printouts listing the names of the registered voters to be used instead of buff cards. On April 19 the Supreme Court ruled that the Board of Elections must provide buff cards and it appeared that the election date might have to be postponed until May 15.

On April 23, the Appellate Division reversed that ruling. On April 27, the Friday before the Tuesday election, the Court of Appeals upheld the original ruling directing the use of the buff cards. On Monday, April 30, the day before the election, the Legislature amended the Decentralization Law to permit the use of the computer printout.

Thus, the overriding uncertainty about the date of the election was not removed until the last hour.

It is clear from the record that even conscientious and concerned people had difficulty getting factual information about registering, candidates, polling places, and the date of the election itself. The entire electoral process was one of constant uncertainty and crisis.

In this report by "electoral process" is meant all proceedings inclusive of the filing of nominating petitions, registration, dissemination of information, voting, and the count of the ballots.

Before proceeding to a discussion of the problems involved in the electoral process, I recognize that there are some who have urged that Community School Boards should be appointed, not elected.

The adoption of an appointive system would deprive citizens and non-citizen parents of the right which the Legislature has given them to elect their own Community School Boards and would embitter the many who properly consider this an important right. It is a change which would only cause frustration and alienation. What is needed is not to discourage community interest and involvement of the education of our young, but to set up a structure and procedures which will enable fair and responsive elections of Community Boards.

RECOMMENDATIONS

The Governance of the Electoral Process

The single most important change which is required is the concentrated responsibility for the conduct of the electoral process in a separate, independent agency.

As late as October, during the hearings some six months after the May 1 elections, there was disagreement as to the respective responsibilities of the Board of Education and the Board of Elections under the existing law.

Mr. Isaiah Robinson, a member of the Board of Education and its representative at the hearing, testified:

> MR. RUBIN: In effect, then, what the Board of Education decided was that with respect to the responsibility for registration as distinguished from voting, you would use the Board of Elections as your administrative agency in that regard?
>
> MR. ROBINSON: No. We interpret the law to mean that all matters with respect to registration and election were the responsibility of the Board of Elections.
>
> MR. RUBIN: Both registration and the election?
>
> MR. ROBINSON: Yes. And that the Board of Education had the responsibility for information and education. That was our interpretation of it.

On the other hand, Mr. Paul Greenberg, the Director of the Special Unit for School Board elections, of the Board of Elections, testified:

> MR. GREENBERG: The law, as I understand it now, says that the prime responsibility for the rules governing these elections is the Board of Education of the City of New York. They make the rules for petitions, who may circulate them, who may be a candidate, who may campaign in it, and a host of things governing it.
>
> The Board of Elections is the agent that carries out both their mandate and hopefully the mandate of the Election Law of the State of New York, which also governs the school board elections.

The existing statute contributes to the confusion.

Education Law section 2590-b 2(e) provides: " The interim board of education shall provide for the registration of persons qualified . . . to vote . . . ."

Education Law section 2590-c 2 provides: " Such members shall be elected at an election conducted by the board of elections . . ."

Subdivision 5 of section 2590-c provides that each registered voter shall vote at polling places designated by the Board of Elections. It also provides that each person voting as a parent shall vote at polling places designated by the Board of Education.

Paragraph (32) of subdivision 6 of the same section provides that administrative regulations for the conduct of elections by proportional representation, " not inconsistent with the provisions of this article," may be made by the City Board (of Education) and, subject to any such regulation, by the Board of Elections.

Paragraph (31) of subdivision 6 makes the provisions of the Election Law generally applicable.

The result of this diffusion of responsibility is confusion.

The Board of Education, trying to cope with the innumerable education problems of the city, is not geared to operate an election. It has had no experience with petitions, nominations, judicial review, or any other aspect of the electoral process.

The Board of Elections is a bi-partisan agency primarily concerned with general elections. Its members are divided equally between Republicans and Democrats. Inspectors of elections, named by county leaders, must be equally divided between Republicans and Democrats. A Community Board election requires non-partisanship, not irrelevant political bi-partisanship.

Mrs. Elizabeth Clark of the Board of Education staff, reports that " Board of Elections borough offices referred hundreds of calls to the Board of Education claiming the Board of Education was running the elections. Calls were received both before and after Election Day."

In her report, Mrs. Clark states, " Hundreds of voters in all boroughs did not receive notice of where to vote."

The present Executive Director of the Board of Elections, Mr. James Siket, in a forthright statement, says, " Community School District boundaries are not drawn to conform to election districts. This causes 'split' election districts for the school board elections. Because of this, voters who are accustomed to voting in a polling place designated for the general elections find that they must vote elsewhere for school board elections. This results in much needless testiness at the polls. It also contributes to mistakes by the Board of Elections, in having to break up election district binder records to allocate voters' records by address to other election districts."

Mr. Siket states, " The present system of selection of inspectors for School Board Elections is fraught with possibilities of fraud and irregularities."

It is clear that both the Board of Education and the Board of Elections have primary responsibilities other than the conduct of Community Board elections. The result is that these important elections are relegated to a subordinate status.

Such a result cannot be permitted to continue. It is the legislative intent to encourage community involvement. This was the stated reason for the Decentralization Law. The flawed electoral process discourages community involvement. It alienates parent voters who may be voting for the first time at an election. It breeds distrust of the election and in instances distrust of Community Boards elected in a process in which people have no confidence.

The proper conduct of Community Board elections can have important implications. Other states are studying the question of decentralization in cities even beyond the educational system.

I have therefore concluded that the most important single step which the Legislature can take to ensure fair and orderly Community Board elections in the future is the creation of an independent agency with sole responsibility for the conduct of the entire Community Board electoral process. Such an agency, which might be named the " Community School District Elections Commission," should be given complete independence in the discharge of its functions from both the Board of Education and the Board of Elections.

The Commission should consist of three unpaid commissioners — one appointed by the Mayor of the City of New York, one by the Board of Education, and the third by the State Commissioner of Education. Fortunately, New York City is blessed with a number of men and women of great talent who will willingly respond to a call to this task.

The terms of office of the members of the Commission should be three years; the chairman should be selected by the members; each member should be removable for cause, after a hearing, by the appointing body or officer; and vacancies should be filled by such body or officer.

The Commission should be empowered to employ an executive director and such other personnel as may be required.

It should have a small, permanent staff which would function year-round, and should appoint and consult extensively with an advisory council composed of representatives of concerned civic and community organizations in the city.

The legislation which creates the Commission should provide that those requirements of the Election Law which relate to such matters as the timetable for the electoral process, the form of nominating petitions, the location of polling places, the selection of personnel to man the polling places and the procedures for dealing with challenges shall be inapplicable to Community Board elections. The legislation should also delete from Education Law section 2590–c, the present requirement that the elections be held on the first Tuesday in May. In place of these unduly rigid and in some cases wholly inappropriate requirements, the Legislature should vest in the Commission the power to adopt, by regulation, a timetable and procedures which are specifically tailored to the requirements of this unique kind of election in the City of New York. In a word, I would hope that if the Legislature sees fit to accept these recommendations, the legislation creating the Commission would grant it maximum flexibility, subject only to those minimum standards and guidelines which the Legislature believes to be essential.

I have adverted to the problem of communication in the 32 Community Districts. A professional staff geared to this responsibility could do a far more effective job than is possible presently in bringing needed information to the attention of the voters and those who would be candidates. Such an agency can get maximum cooperation from all of the media, and should develop other techniques for bringing the importance of Community Board elections to the public.

New York is fortunate in having among its citizenry the most talented communications people in the world. It is predictable that many of these would respond affirmatively to an invitation to serve on a task force that would direct itself to the problem of effective dissemination of information regarding Community School Boards and their election.

Information campaigns should be a year-round effort. Crisis campaigns undertaken in the last weeks are inadequate.

The Commission should employ inspectors independently of political parties. There are many who would gladly serve at the same rate of compensation as inspectors now receive. These inspectors should be trained in the mechanics of the preferential voting process. They should pass a test ensuring their qualifications.

There will be no need to have four inspectors when two can do the job. There will be no need to have 4600 election districts and 1599 voting places. There will be no need for 9200 poll watchers. With fewer polling places, the cooperation of the Police Department, which is responsible for security, can be given with greater efficiency and at substantially lower cost.

As will be discussed under the following item, " Registration," the Commission will be in a position to determine how many voting places there will be and these need not be related to Assembly districts or election districts.

The Commission can notify each person entitled to vote exactly where he or she votes.

The Commission should have the authority to make use of voting machines if it finds such use to be feasible in a system of proportional representation. This is a matter requiring expert study. I have been advised that it is quite within the realm of possibility.

It would be unrealistic to recommend the creation of this new agency without being conscious of the cost element. Figures which I have seen with respect to the May 1 elections reflect a cost of $3,686,000. There were undoubtedly indirect costs which were not included in this figure. Although I obviously cannot conclusively document my prediction, I would be confident that a small, well-trained staff operating throughout the year, freed of some of the present requirements of the Election Law, would be able to conduct a fair and efficient election for less money than the present, unnecessarily cumbersome procedure requires.

The Community School Board elections should continue to be separate from other elections in the city. A March date would generally avoid conflict with the religious holidays and would avoid confusion with city primaries. Since the religious holidays are not on the same days each year, since the dates of other primaries vary, and since there may be more local elections as more municipal functions are decentralized, the date of Community Board elections should be left to the Commission.

The Commission, by having control of the periods for nominations, the validating of nominations and the date of voting, could avoid in

the future a situation in which, as one observer reported, " Many people voted for those who had been declared ineligible or who had withdrawn."

Nor would it be necessary, as happened in 1973, for the Board of Elections to buy materials and equipment on an emergency basis at unnecessarily high prices. With proper planning and careful preparation, with knowledge of where the voting would take place and when, with more knowledge than is now available as to the probable number of voters, the Commission could effect large savings. And with a unit functioning throughout the year, if paper ballots have to be used, proper arrangements could be made well in advance of the election for the delivery of ballots and adequate ballot boxes to the polling places, and for their protection and prompt delivery to the locations where the counting of ballots will take place.

The Commission could also undertake research into proportional representation techniques to determine whether any amendments of the present law could improve this form of voting.

The Commission should also be responsible for the nominating procedure. The present highly technical requirements with respect to petition, are irrelevant to a Community Board election. A far simpler petition form could be used. Challenges to nominations should be heard and decided by designees of the Commission.

The relationship of the proposed Commission to the existing structure of government must of course be considered. After reviewing a number of possible alternatives. I have concluded that the Commission could most appropriately be created within the existing corporate structure of the Board of Education. This technique would facilitate the handling of " housekeeping " problems, while still permitting the full independence in its operations which the Commission must have.

The legislation should also direct the Commission to report to the Legislature, the Governor, the Mayor, the City Council, the Board of Regents, the Commissioner of Education and the Board of Education following the 1975 election, on all aspects of the operations of the Commission and the administration of the election.

IN SUMMARY, I RECOMMEND THE CREATION OF AN INDEPENDENT COMMISSION CONSTITUTED AND EMPOWERED AS AFORESAID TO CONDUCT THE ELECTORAL PROCESS RELATING TO COMMUNITY SCHOOL BOARD ELECTIONS.

REGISTRATION

The matter of registration is extremely important. Much criticism was voiced at the hearings.

Under existing law, those who are registered to vote at the regular elections are automatically eligible to vote at Community Board elections. Non-citizen parents, however, must register specially.

Registration for Community Board elections should be made as easy and simple as possible. The procedure should be so easy for the prospective voter that the person who does not register for a Community Board election is almost saying affirmatively that he or she has no interest and does not wish to vote.

Having said this, I believe there should be a single registration process for all voters, handled separately from registration for general elections. Such a procedure would avoid many of the difficulties of the dual registration system presently in effect. In addition it would enable the new Commission to have an accurate count of school board election registrants, and to plan for election day accordingly. An accurate indication of the number of potential voters would serve as a guide in determining the number and location of polling places, and would enable the Commission to determine the number of personnel required on the day of the election.

To facilitate the registration process, I propose that registration by mail be authorized, along with year round personal registration.

The idea of registration by mail is not new. In fact, there is now pending in the Senate of the United States a bill (S. 352) introduced by Senator McGee that specifically undertakes to set up machinery for registration for Federal elections by mail. A supporting memorandum points out that " for a number of years, Texas has practiced clipping registration forms from the newspaper and mailing them to the registrant — no increase in fraud."

Another, and more comprehensive bill (S. 472) has been introduced by Senator Kennedy for himself and other Senators. It proposes machinery for a registration program that will include not only registration by mail but additionally, mobile registration, door-to-door canvass procedures, public information, and other activities designed to increase voter registration.

I would suggest that the form and method of mail registration be left to the proposed Commission. It will be able to examine into the forms used elsewhere in order to minimize the possibilities of fraud. The Commission may choose to mail a form to all registered voters listed with the Board of Elections and to all parents not registered but listed with the schools. It may use other lists as well, such as Social Security records.

The Commission would have the authorization to deputize registrars. Parents enrolling children in schools would be offered the opportunity to sign the registration card at the time of registering the child. All parents and other people would also be informed that the registration form could be filled out at any time during school hours and school secretaries would be deputized for this purpose. In addition, there could be a well advertised period in addition to all of the foregoing during which persons who had failed to register could do so at stated places.

In other words, as stated, registration for parents and non-parents alike could be made so simple that the person who declines to register is affirmatively declaring his unwillingness to vote.

Thus, the Commission will have its own records of those qualified to vote. The type of difficulty encountered in the May 1 election could not recur. There would be no need for printouts in place of regular registration cards.

Registration would be permanent except in the case of parents whose qualification is dependent upon having a child at school. In that case, as now, each school would have to notify the Commission of any departure from that school of the pupil. If a parent has children attending schools in two different districts, that parent would have the option to decide in which district he or she wishes to vote.

The Commission will set up voting districts and be in a position to inform each prospective voter exactly where to vote and to furnish the correct list of registrants to each polling place. Maximum flexibility should be given to the Commission so that it may employ all techniques which, upon study, it finds to be feasible to obtain maximum registration.

IN ACCORDANCE WITH THE FOREGOING, I RECOMMEND THAT THE COMMISSION BE EMPOWERED TO SET UP INDEPENDENT REGISTRATION PROCEDURES, FREED FROM VARIOUS PRESENT REQUIRMENTS OF THE ELECTION LAW, WITH ITS POWERS TO INCLUDE REGISTRATION BY MAIL AS WELL AS PERSONAL REGISTRATION. I RECOMMEND THAT WIDE LATITUDE BE GIVEN TO THE COMMISSION TO DEVELOP APPROPRIATE PROCEDURES. THE LEGISLATION SHOULD, HOWEVER, PROVIDE THAT REGISTRATION BE PERMANENT EXCEPT WHERE THE RIGHT TO VOTE IS DEPENDENT UPON THE PARENT HAVING A CHILD AT SCHOOL, IN WHICH CASE REGISTRATION SHOULD BE VALID UNTIL THE PUPIL LEAVES THE SCHOOL.

PROPORTIONAL REPRESENTATION

Under the Decentralization Law, the legislation provided for proportional representation through preferential voting in order to provide representation of minority viewpoints, ideological as well as ethnic. Under this method of election, the voter must make his selections in order of priority. A counting procedure is spelled out which assigns the minimum quota of " first choice " votes needed to win a seat, and once the quota is met by a candidate, it transfers the remaining top choices for him to the second choice on the ballot, and so on. Candidates are eliminated in a similarly complicated way.

The value of proportional representation is a subject on which there can be valid disagreement. Opponents of this method argue that there is confusion over how to rank and count candidates and that this intimidates the prospective voter and discourages people from voting. It is also argued that proportional representation requires special training of election workers and counters as well as educating the voters. It is argued that it does not achieve minority representation *per se* but only in terms of and in proportion to the number of votes cast. It is also a fact that there is a certain element of chance because the order of counting ballots is determined by lot. Another point that is made is that voting machines are not used and perhaps cannot be used, and the necessity of paper ballots opens the possibilities of fraud.

The proponents of proportional representation point to its advantages: first, the statistics would indicate that the system is working quite well. It gives voting minorities some representation and the strongest groups obtain the seats to which they are entitled. There are those who argue that the reason that cities have abandoned proportional representation is that it works too well, to the disadvantage of the major parties, allowing minority parties a representation which the majority does not wish.

Much of the difficulty of ranking the candidates would be dissipated if there were fewer candidates on the ballot. This point will be discussed later in this report.

With each election, the voters understand the system better. It should not be difficult for the staff of the Commission to train adequately inspectors and election workers to understand the procedures. So far as complexity is concerned, the ballot which confronted the voter on the voting machine at the general election on November 6 was far more complicated than the preferential ballots used in Community School Board elections.

But the overriding question about proportional representation is whether it does, indeed, achieve its end of giving fair representation

on the Community School Boards to various minorities within the districts.

Citywide, according to the Board of Education, the population is 21 percent black, 15 percent Puerto Rican and Spanish surnamed, 1 percent Oriental and 63 percent " other," chiefly whites. Of the 288 Community Board members elected on May 1, 25 percent are black, 12 percent Puerto Rican and Spanish sur-named and one-half percent from Oriental background. In other words, the citywide figures would indicate that the ethnic minorities, despite their low turnout compared to whites, are represented approximately in proportion to their relationship to the total population.

If there were to be a substitute for proportional representation, it would have to be a form of sub-districting which will be discussed under the succeeding point.

ON BALANCE, I RECOMMEND THAT PROPORTIONAL REPRESENTATION AND THE PREFERENTIAL BALLOT BE CONTINUED.

SUB-DISTRICTING

The question of sub-districting has been a difficult one. Because the individual districts are so large, their populations so diverse, the provision of normal press and electronic media coverage so difficult, the idea of sub-districting into smaller units and dividing the Board members among them is most appealing.

The obvious advantages would be that smaller units would make it easier for citizens or parent groups to reach the voters and keep them informed about school issues and candidates. It would ease the problem of communication. Also, better informed voters would be less liable to manipulation by special interests. Fairer geographical representation would be produced. Fairer minority representation would also result since a higher turnout in one sub-district would not override a lower turnout in another.

The difficulty is that the concept is not self-executing, and when one attempts to implement it, many problems arise. The complexities may be apparent from the fact that during this past summer a study group of various civic and community organizations worked intensively on this question and could not arrive at a consensus.

Against the idea of sub-districting is the argument that it would be divisive, pitting neighborhood against neighborhood. Voters would be prevented from voting for all members of the Board and Board members would tend to represent the interests of their own enclaves,

not the general good of the district as a whole. Small districts are as susceptible to manipulation by special interests as large districts. The United Parents' Association fears that sub-districting would lead to the defeat of parent-backed candidates in too many areas of the city. Sub-dividing the districts would generate more fractionalization, more hostilities, more confrontations.

One method suggested by the Public Education Association is to draw the sub-districts around the cluster of elementary schools that feed into a junior high school. Under this system the Boards could vary from seven to 15 members. (The PEA has made a detailed and careful presentation of the plan, and if at any time the Legislature should decide to pursue the concept, its material would be worthy of careful study.)

Yet, as the PEA itself points out, such a scheme has inherent complications. The number of clusters varies from three to eight or nine among the districts. The number of elementary schools within the cluster also varies, ranging from one to eight, including feeder schools that send one to 50 children to a junior high school, and others that send 25 or more children to more than one junior high. The number of registered voters in each cluster also varies widely. In District 29, for example, it ranges from 17,000 to 28,000.

Clearly then, the clusters would have to be juggled and readjusted to achieve balanced representation. There would have to be readjustment in the formula to conform to the " one man-one vote " doctrine. What would constitute a population disparity is not an exact proposition. The exigencies of school utilization and integration require continual readjustment of the clusters.

Neighborhoods change rapidly and if an accommodation to ethnic populations is the objective, there would be continual redrawing of lines as such populations shift.

Not even population alone, ethnic and community considerations aside, presents a clear path, for then one is faced with the question of whether to subdivide on the basis of adult population or student population. Wide diversities in the ratio of adults to students, already cited, show that what would work in one district would fail in another.

Any drawing of subdistrict lines will be subject to the fear and charge that it was influenced by election politics rather than by the educational needs of the children.

Particularly in view of the continually changing and shifting population within the city, no matter how honorable the reasons for altering subdistrict lines, the charge of gerrymandering would be present and would be vocal. Indeed, the appeals from any alteration in sub-

district lines would probably be so numerous that special arrangements would have to be made to cope with the complicated presentations that would be made in each instance of complaint. While the idea of subdistricting has undoubted appeal, when one attempts to translate the idea into practice, the problems generated would outweigh the benefits that might be produced.

ON BALANCE, THEREFORE, I RECOMMEND THAT THE PRESENT CONCEPT OF DISTRICTING BE RETAINED AND THE SUGGESTION OF SUBDISTRICTING BE REJECTED AT THIS TIME.

LENGTH AND STAGGERING OF TERMS

Here also, a complex issue is presented. The fact that one votes for nine or more candidates is in itself a difficult and discouraging fact which in all probability contributed to the nonvoting of persons who otherwise would be interested and concerned. A two-year term seems too short since it takes a new member a number of months to become oriented and knowledgeable. The present system of electing an entire new Board every two years, rather than a system of staggered terms, as is the case in every other school district in the State, is likewise disadvantageous. Staggered terms are favored by most school Boards in the nation not only for continuity of experience assured, but because fewer seats are up for election, fewer candidates therefore run and the electorate has a better chance to learn about the candidates than if the field were crowded.

However, it can be argued that continuity does not depend on staggered terms. In 1973, two-thirds (179) of the Board members ran again and almost half (43 percent) of the present 288 Community Board members were incumbents. In 11 of the 32 districts, second-term members constitute the majority.

There are those who consider the assurance of continuity by staggered terms a drawback in itself. Indeed, the continuity of " unrepresentative " Boards is precisely what they wish to upset. They feel that the fewer seats available, the less chance there will be for a minority viewpoint to win a seat. Not until the 5th or 6th seat, they argue, can 16.7 percent or 14.4 percent of the voters elect a candidate.

But the fact remains that in 1973 there were 841 candidates in the field. The smallest number to run in any district was 18. The largest was 45. No matter how much communications can be improved, it seems to me there is virtually no way to inform the voters adequately about two dozen or more candidates running for nine seats.

The difficult question then is what can be done about it. The easiest formula that comes to mind is to have annual elections for three members from each district, each member to serve for three years. The difficulty with this is that parents' associations quite properly argue that they simply cannot mobilize their energies and manpower to wage an adequate campaign for parent-supported candidates if they must do this every year. They urge that only biennial elections are fair and that the present statutory biennial elections should be retained.

But if biennial elections are to be held, and if three candidates were to be elected at each election, the term of a Board member must be six years. This length of term, at least at the present time, is too long and would meet with understandable objection.

Here also a balanced compromise appears necessary. That compromise is to have biennial elections with five members elected at one election and four members elected at the succeeding election, two years later. This would provide four year terms, which appears to be reasonable and is the average term of school board members throughout the State.

Obviously, it must quickly be conceded that when one reduces the number of vacancies at each election, the percentage of votes required to elect a candidate is necessarily increased. To that extent the effect of proportional representation is diminished. Today a candidate who gets approximately 10 percent of the vote can be elected. With five running, the candidate would need 16.7 percent of the vote. If four seats are to be filled the successful candidate would need approximately 25 percent of the vote. There are those who argue that this constitutes an improvement, not a disadvantagement. They would urge that, as a matter of degree, too much splintering is undesirable and the prospect for moderation is improved if relatively small minorities do not obtain representation.

Again, it is impossible to assert that any given alternative is demonstrably " right." But I believe that considering all the elements and, most importantly, the factor of having too many candidates in the field at every election, the resulting difficulty of providing visibility to the electorate, must be recognized. It seems to me, therefore, that the suggestion of having biennial elections with five members elected at one time and four the next time would, on an overall basis, best meet the problems which have been described. Obviously, the problems inherent in electing all nine members of each Board in a single year cannot be avoided in 1975. However, they can- and should be- avoided in future years. It may be, of course, that with the new Commission handling the pre-election procedures as well as the election

in 1975, the disadvantages of having nine candidates elected in a single year can be overcome. In addition, the report by the Commission to the Legislature and others following the 1975 elections will give valuable insights. However, I must make a recommendation at this time.

I RECOMMEND THAT ELECTIONS BE BIENNIAL, AND THAT AT THE 1975 ELECTION THE FIVE CANDIDATES RECEIVING THE HIGHEST NUMBER OF VOTES BE ELECTED FOR FOUR YEAR TERMS AND THAT THE NEXT FOUR CANDIDATES BE ELECTED FOR TWO YEAR TERMS.

ELIGIBILITY

First, as to eligibility of voters. It has been urged upon me that only parents of school children should be permitted to vote at Community Board elections. Others have suggested that parents of school children should elect five members of the Board while non-parents elect four. Aside from the merits of these proposals, to which I do not subscribe, I believe that legislation which restricted the voting power to parents of school children would be unconstitutional under the *Kramer* decision of the United States Supreme Court. Similarly, the suggestion that parents of school children elect five while others elect four would violate the " one man — one vote " concept since, in effect, every parent would have 1.25 votes.

With respect to eligibility for Board membership, it has also been suggested that only parents of public school children should be eligible because of their primary interest in education. Beyond the fact that such narrow eligibility denies to non-parents a basic right to citizenship, it is unfortunately true that parenthood neither insures interest in education nor automatically guarantees qualification to hold office. New York has had a long list of men and women who have served as School Board members who have not had children in school at the time of service.

Another point which has been made is that under existing law employees of the school system can run for Community Board membership provided they are not employed in the district in which they run. After the 1973 election, 24 teachers, 2 principals, 2 Central Board staff members, and 3 para-professionals were elected to Community Boards. Witnesses claimed that this was sometimes achieved in effect by " swapping " employment assignments. Those who argued that school employees should be permitted to be Community Board members point out that they have a citizen's right to run for office, that

they have valuable expertise to offer, that the element of conflict of interest is minimal and that realistically to deny them the right to run accomplishes little, since they can have surrogates to run in their places. It is argued that it is better to have the true candidates out in the open.

On the other hand, the conflict of interest may well be more than minimal. A very important responsibility of the Board of Education is the negotiating of contracts with its employees. Community Boards not only serve in a consultative capacity, but a committee of the Community Boards participates directly at the negotiating table. This conflict of interest can well be argued to be more than minor.

As a Board member, a school employee would have a natural alliance with all school employees affected by Board decisions. In addition, when school employees run for Board membership in opposition to candidates backed by parents, antagonism has been increased. In some cases it may prove to be extremely difficult to keep electioneering out of the schools if staff members are candidates for office.

Again, on balance, I believe that no employee of any Community School District or of the Central Board of Education should be eligible to run for Community Board membership.

Another restriction has been urged, namely, that elected officials at the municipal, State, and Federal levels be ineligible to run for Community Board membership. I believe that in view of the fact that such elected officials do determine policies which affect Community School Boards, they should be ineligible to run for membership on such Boards. No matter how honorably they discharge their duties both as officials holding other office and as Community Board members, it is the perception of many people which is important. That perception is that membership on Community Boards of officials holding other elected public office injects party politics and club house influences into the functioning of the Community Boards. This perception is damaging and should be avoided.

I recognize that nothing prevents members of the staff of such elected officials from serving, and the argument can be made that it is better to have the officials themselves out in the open than operating through their staff people. However, as in so many other things, there is the element of degree. I feel it would be impractical to go beyond declaring the ineligibility of elected officials.

In addition to the foregoing amendments, I believe that Education Law, Section 2590-c, Subdivisions 3 and 4 should be amended to eliminate the phrase " citizen of the state " as a purported qualification to vote or to serve as a member of a Community Board. Since the law presently permits parents who are not citizens of the United States to

vote and hold office on Community Boards, provided they meet specified age and residence requirements, since the concept of "citizenship of the state" is not clearly understood, and particularly since the words in question do not add any substantive qualification beyond residence, the deletion of the words "citizen of the state" will avoid confusion.

I further believe that Education Law, Section 2590-c, Subdivision 4, dealing with eligibility for Community Board membership, should be amended to reduce the minimum age requirement from 21 to 18. A similar amendment was made at the 1973 session of the Legislature with respect to qualifications to vote in Community Board elections.

I RECOMMEND THAT THE ELIGIBILITY REQUIREMENTS FOR VOTERS AND COMMUNITY BOARD MEMBERS BE MODIFIED IN ACCORDANCE WITH THE FOREGOING SUGGESTIONS.

FILLING OF VACANCIES

The problem of filling Community Board vacancies is a vexing one.

According to information provided by the Board of Education, a total of 75 vacancies occurred between the 1970 and 1973 elections. Vacancies occurred in 28 of the 31 Community Boards.

Under present law, vacancies are filled by the Boards themselves. In at least one instance this has resulted in inaction by the Board due to a divided vote. A further problem is the fact that if a vacancy be that of a "minority" member and the vacancy is filled by the remaining members of the Board, there is the risk that the majority will select a successor more sympathetic to their views than was the resigning member.

It has been suggested that the vacated post be offered to the person who ran 10th in the prior election and if he cannot serve, to the person who ran 11th, etc. This has the objection that such person may have been a candidate affiliated with the majority but who was defeated by a minority candidate. For such person automatically to receive membership could distort the will of the electorate.

The difficulty is further compounded by the ruling of the Court of Appeals in the *Roher* case. The Court held that the provisions of Article XIII, Section 3 of the State Constitution apply to vacancies on Community Boards. It therefore held that no vacancy on a Community Board may be filled by appointment beyond December 31 of any year.

First, I would urge that the Legislature initiate an amendment of the State Constitution to make Article XIII, section 3 of the Constitu-

tion inapplicable to boards of education. The terms of office of Community Board members, and of school board members generally in this State, begin on July 1, with the elections held during May or June. Thus the " school year " does not coincide with the " political year." It is impractical and an unnecessary hardship to conduct special elections to fill vacancies simply because the appointive power can legally be effective only until the end of the calendar year. However, since such an amendment must pass two successive Legislatures and then be submitted to the people by referendum, such amendment cannot of course be operative in time for the 1975 election.

With respect to the filling of vacancies by appointment, to the extent permitted under the *Roher* decision, I suggest immediate legislation providing that vacancies be filled by appointment to be made by the Chancellor of the city school system, rather than by Community Boards as presently provided. I believe that of all the possible alternatives to the filling of vacancies by appointment, this approach is the one most likely to avoid paralyzed Boards and to ensure that each vacancy is filled with a person who is representative of the constituency which elected the member being replaced. I recognize that an argument can be made that a local membership should not be filled by a Central Board official. But I believe that, realistically, this proposal will not only help to prevent split Boards but will also result in appointments likely to be fairer than any alternative method.

I further recommend that in order to implement the decision of the Court of Appeals in the *Roher* case, legislation be enacted authorizing the Commission to conduct special elections to fill vacancies pending the next regular election. It should be noted that no more than one special election would be required in any year, since all vacancies in all Community Boards could be filled at a single election.

I THEREFORE RECOMMEND THAT THE LEGISLATURE INITIATE A CONSTITUTIONAL AMENDMENT WHICH WOULD PERMIT THE FILLING OF VACANCIES ON BOARDS OF EDUCATION BY APPOINTMENT FOR THE UNEXPIRED TERM. I FURTHER RECOMMEND THAT, PENDING THE ADOPTION OF SUCH A CONSTITUTIONAL AMENDMENT, LEGISLATION BE ENACTED TO PROVIDE FOR THE FILLING OF VACANCIES IN ACCORDANCE WITH THE FOREGOING RECOMMENDATIONS.

SLATES

The suggestion has been made that Community Board candidates run on political slates, such as Democrat, Republican, Conservative,

Liberal or other party designation, and that the election be held as part of the general election in November.

I believe the proposal to be inadvisable. The political affiliation of a candidate is irrelevant to his or her qualifications as a Community Board member. Further, to have candidates running on political party slates would surely lead the public to believe that the Community Boards serve the interests of a political party rather than the educational needs of the children. To have the election as part of the general election would subordinate the Community Board election. The Community Board election would be swallowed up by the more dramatic political election.

As to whether Community Board candidates should run on nonpolitical slates poses a more difficult question. Although such slates make it difficult for the independent candidate to oppose a joint effort, slates and coalitions make it easier to organize a campaign and to inform the voters about the candidates.

Whether such nonpolitical slate names should appear on the ballot is another problem. The practice would, of course, make it easier for the voters, who would have to remember only the name of the slate rather than the names of individual candidates. It requires monitoring, however, to see to it that the stated coalitions are not spurious, and that they do back the candidate using their imprimatur.

THEREFORE, I RECOMMEND THAT NO POLITICAL PARTY SLATE DESIGNATIONS BE ALLOWED ON THE BALLOT. AS TO NONPOLITICAL PARTY SLATE DESIGNATIONS, I WOULD LEAVE THIS TO THE COMMISSION TO DETERMINE WHETHER OR NOT IT CAN ADEQUATELY MONITOR THE PRACTICE. THE LEGISLATURE SHOULD GRANT SUCH LATITUDE AND AUTHORITY TO THE COMMISSION.

TO IMPLEMENT THE FOREGOING EDUCATION LAW SECTION 2590–c, SUBDIVISION 6, PARAGRAPH (4) SHOULD BE AMENDED TO ELIMINATE THE WORDS "OR OTHER ORGANIZATIONAL AFFILIATION."

PETITIONS

The requirements of the Election Law relating to nominating petitions are far more elaborate than the practical requirements of petitions for nominations to Community Boards. Therefore, the requirements of a petition for Community Board candidacy should be left to the new Commission.

The present number of 200 signatures is as "right" as any other.

The present law limits the voter to signing one petition. The point has been made that since he can vote for all the seats which are up for election, he should be entitled to sign a comparable number of petitions.

However, if a voter can sign as many petitions as there are open seats, an entire slate could get on the ballot with only 200 signatures, repeated for all. This would defeat the purpose of demonstrating at least some potential support for the individual candidate.

In the May elections, according to information supplied me, there were approximately 170 challenges to petitions, 52 court cases and 55 disqualifications.

According to a staff member of the Board of Election, many people voted for those who had been declared ineligible or those who had withdrawn. It will be important for the Commission to see to it that all candidates whose names appear on the ballot are valid candidates as of the date of the election.

Challenges to nominating petitions should be heard by a representative of the new Commission.

I THEREFORE RECOMMEND THAT THE PRESENT REQUIREMENT OF 200 SIGNATURES BE RETAINED, THAT A VOTER CONTINUE TO BE ENTITLED TO SIGN ONE PETITION ONLY, AND THAT THE NEW COMMISSION BE AUTHORIZED TO PROMULGATE REGULATIONS AND ESTABLISH PROCEDURES TO REGULATE THE NOMINATING PROCESS, INCLUDING THE FORM OF PETITIONS.

CAMPAIGN EXPENDITURES

The question of limitation of campaign expenditures was raised by several of the witnesses. It was urged that the United Federation of Teachers was in a position to finance campaigns in support of candidates it endorsed to an extent which no other individual or group could possibly match.

In a forthright letter to me by Mr. Albert Shanker, dated November 27, he states that the UFT spent slightly over $127,000 in support of the candidates it favored, and that this expenditure is exclusive of the value of services in behalf of candidacies performed by teachers and others where such services cannot accurately be measured. (In the same letter, Mr. Shanker complains that officials of anti-poverty agencies campaigned during working hours and that in the recent special election in District 17 the Union has documentary evidence that postage meters registered to agencies of the City of New York were used to mail literature urging votes for three particular candi-

dates, all opponents of the UFT-endorsed incumbent majority slate.)

Section 455 of the Election Law imposes limitations upon the amount which may be spent by candidates for public office and the political committees supporting a candidate. I believe that the proposed legislation recommended herein should incorporate provisions similar to those of Section 455.

Various limitation figures have been suggested and here also there is no way to select a figure that is demonstrably " right." I personally would suggest that a limitation of $1,000 per candidate would be as right as any other. All campaign expenditures should be required to be reported and made public.

If new legislation applicable to general elections should be enacted in this area, I would suggest that such legislation, to the extent appropriate, be made applicable to Community Board elections.

I RECOMMEND THAT LEGISLATION BE ENACTED TO REQUIRE CANDIDATES FOR ELECTION TO COMMUNITY BOARDS, AND COMMITTEES SUPPORTING THEM, TO MAKE A PRELIMINARY REPORT OF CAMPAIGN RECEIPTS AND EXPENDITURES 5 DAYS BEFORE EACH ELECTION AND A COMPLETE REPORT 20 DAYS AFTER EACH ELECTION, AND THAT PROVISION BE MADE, PATTERNED AFTER SECTION 455 OF THE ELECTION LAW, LIMITING EXPENDITURES TO $1,000 PER CANDIDATE.

USE OF SCHOOL CHILDREN TO DISTRIBUTE CAMPAIGN LITERATURE

Obviously, an easy and inexpensive way to get information to parents is to have pupils carry such information home. I see nothing improper in this, provided such information distributed by children is limited to general information on registration and the elections. However, it would be unwise to involve children in delivering campaign literature written for specific candidates or slates. The children become the agents of candidates. Further, the contents of some literature may be objectionable and the question of censorship should be avoided.

I THEREFORE RECOMMEND THAT SCHOOL CHILDREN BE GIVEN ONLY GENERAL INFORMATION PROVIDED BY THE COMMISSION RELATING TO REGISTRATION, THE ELECTIONS, AND IN THE DISCRETION OF THE COMMISSION, BIOGRAPHIES OF CANDIDATES.

MULTILINGUAL ASPECTS

Various decisions by the courts relating to the distribution of multilingual materials and the use of interpreters have become requirements to be enforced by the Commission.

The number of interpreters during registration and on election day and their employment should be determined by the Commission, not by district superintendents or principals. Likewise, the training of interpreters and the preparation of printed materials should be the responsibility of the Commission.

I RECOMMEND THEREFORE THAT ALL ASPECTS OF MULTILINGUAL LITERATURE, AS WELL AS THE ENGAGEMENT, TRAINING, AND USE OF INTERPRETERS AND OTHER PERSONNEL, BE LEFT TO THE COMMISSION.

PARENT LISTS

I RECOMMEND THAT PARENT LISTS BE TURNED OVER BY SCHOOL AUTHORITIES TO THE COMMISSION SO THAT THE LATTER CAN MAKE APPROPRIATE EFFORTS TO OBTAIN REGISTRATION AND INTEREST IN VOTING. PARENT LISTS SHOULD NOT BE DELIVERED TO ANY OTHER INDIVIDUAL OR GROUP. ALL LISTS OF REGISTERED VOTERS, INCLUDING PARENTS, SHOULD BE PUBLIC.

CONCLUSION

I recognize that in several respects the foregoing recommendations call for substantial changes in the structure and governance of Community Board elections. However, I have attempted to make recommendations which go no further than the record indicates is needed.

I respectfully express the hope that you and the Regents and the Legislature will give this problem early consideration.

The proper conduct of Community Board elections is very important unto itself. It has additional and equally important implications as states and cities seek to create more local agencies which will be elected by the people.

MAX J. RUBIN
Special Advisor to the
Commissioner of Education